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APPLICATION NO	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO	CONFIRMATION NO
09 694,554	10/23/2000	Richard O. Moore JR.	G-0004	9964

7590 08/01/2003

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EXAMINER

GRIFFIN, WALTER DEAN

ART UNIT	PAPER NUMBER
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1764

DATE MAILED: 08/01/2003

16

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/694,554

Applicant(s)

MOORE, RICHARD O

Examiner

Walter D. Griffin

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 27 May 2003.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 2-4, 7-11, 16-18 and 24-30 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 2-4, 7-11, 16-18 and 24-30 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____
- 4) ☐ Interview Summary (PTO-413) Paper No(s) _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other

DETAILED ACTION

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 24-30 are rejected under 35 U.S.C. 102(b) as being anticipated by EP 0 583 836

A1.

Applicants are claiming a process for the hydroconversion of a Fischer-Tropsch hydrocarbon stream comprising adding a hydrogen containing gas to the stream, heating the stream, adding a second hydrogen containing gas to the heated stream, heating the stream to reaction temperature and hydroconverting the feedstream

The EP 0 583 836 A1 reference discloses a process of treating hydrocarbon feed containing oxygenates and unsaturates that was derived from F-T synthesis. See page 3, lines 16-21. The process includes adding hydrogen to the feed in a first hydroconversion step under conditions including a temperature of 100-300°C. See page 5, lines 4-10. The hydrogen is added at a rate of 100-1000 NI/l/hr. See page 5, lines 6-10. Next, at least a portion of the treated feed is subjected to a second hydroconversion step at 175-400°C. See page 5, lines 23-34 and 58. The hydrogen is added at a rate of 100-1000 NI/l/hr. See page 6, lines 1-5.

The reference of EP 0 538 836 succeeds in disclosing a process involving applicants' two-step hydrogen contacting steps and heating steps. It appears that the disclosed hydrogen

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amount overlaps applicant's hydrogen amount. The overlapping amounts anticipate applicant's claimed hydrogen amount.

Applicant's "reduction in the formation of heavy molecular weight products during heating" would inherently be accomplished because the same feed and process steps are disclosed.

Applicant's process is anticipated by EP 0 538 836 because it discloses essentially the same steps claimed by applicants.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

Claims 2-4, 7-11, and 16-18 are rejected under 35 U.S.C. 103(a) as being unpatentable over EP 0 538 836 A1. See teachings of EP 0 538 836 A1 above.

Several differences are noted between the reference of EP 0 538 836 and applicant's claimed invention. The reference is silent about the specific percentages of mono-olefins or oxygenates in the feed and the boiling point of the feed. The reference does not disclose all of applicant's claimed sources of hydrogen.

It would have been obvious to one of ordinary skill in the art to treat any low boiling point Fischer-Tropsch feed according to the process of EP 0 538 836, including a feed with the specific percentages of olefins, and specific percentages of alcohols and boiling point defined in applicants' dependent claims, because the reference does not limit the percentage of such components in the feed. Since the reference discloses the general conversion of such components, it would convert any percentage that may be present in the feed.

In addition, it would have been obvious to one of ordinary skill in the art at the time the invention was made to employ hydrogen from "any" available source because hydrogen has the same properties regardless of its source.

Response to Arguments

The argument that the claimed process differs from the process disclosed in the EP reference in that the first addition of hydrogen in the claimed process is not a hydroconversion stage whereas it is a hydroconversion stage in the EP process is not persuasive. The feature upon which this argument is based is not recited in the rejected claims. Specifically, the claims do not recite that the first addition of hydrogen is not a hydroconversion stage. Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Gemst*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Walter D. Griffin whose telephone number is 703-305-3774. The examiner can normally be reached on Monday-Friday 6:30 to 4:00 with alternate Fridays off.

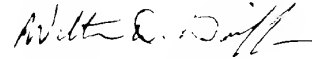
If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Glenn Caldarola can be reached on 703-308-6824. The fax phone numbers for the organization where this application or proceeding is assigned are 703-872-9310 for regular communications and 703-872-9311 for After Final communications.

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Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-0651.



Walter D. Griffin
Primary Examiner
Art Unit 1764

WG
July 28, 2003